

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
+ + + + +
MEETING

IN THE MATTER OF:

Daci Enterprises, LLC	*
t/a Dacha Beer Garden	*
1600 7th Street, NW	* Show Cause
Retailer DT - ANC-6E	* Hearing
License No. 92773	* (Status)
Case #15-CMP-00221	*
Case #15-CMP-00222	*
Case #15-CMP-00223	*
Case #15-CMP-00249	*
Case #15-CMP-00251	*
Case #15-CMP-00250	*
(Substantial Change in Operation	*
Without Board's Approval,	*
Violation of Settlement	*
Agreement, Substantial Change in	*
Operation (No Summer Garden	*
Endorsement)	*

September 9, 2015

The Alcoholic Beverage Control Board
met in the Alcoholic Beverage Control Hearing
Room, Reeves Building, 2000 14th Street, N.W.,
Suite 400S, Washington, D.C. 20009, Chairperson
Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson

NICK ALBERTI, Member

DONALD BROOKS, Member

MIKE SILVERSTEIN, Member

HECTOR RODRIGUEZ, Member

JAMES SHORT, Member

ALSO PRESENT:

AMY SCHMIDT, OAG

1 P-R-O-C-E-E-D-I-N-G-S

2 9:38 a.m.

3 CHAIRPERSON MILLER: So moving on to
4 the Show Cause (Status) Hearing cases. We have,
5 I think, about five cases dealing with Dacha Beer
6 Garden. I'm going to call all the cases. We can
7 deal with them seriatim, but I'm going to call
8 them all at once.

9 They are Case Nos. 15-CMP-00221, 15-
10 CMP-00222, 15-CMP-00223, 15-CMP-00249, and 15-
11 CMP-00251 and 15-CMP-00250. I guess that's six
12 cases. Okay. So Dacha Beer Garden is located at
13 1600 7th Street, N.W., License No. 92773.

14 All right. Would the parties
15 introduce themselves for the record, please?

16 MS. SCHMIDT: Good morning, Amy
17 Schmidt, Assistant Attorney General on behalf of
18 the District of Columbia.

19 MR. KLINE: Good morning. Andrew
20 Kline on behalf of the licensee.

21 MR. ALTER: And Ilya Alter, the
22 licensee.

1 CHAIRPERSON MILLER: Okay. Good
2 morning. So I have read the general
3 instructions.

4 Are there any preliminary matters in
5 this case?

6 MS. SCHMIDT: Yes. Yes, we would like
7 to continue this for another status. There are
8 some issues that have come up, because there are
9 multiple cases, and we -- and there are some --
10 that extend to all the cases. We would like to
11 discuss them. We would like to have a little
12 more time to explore these issues and, therefore,
13 we're asking for a second Status Hearing.

14 CHAIRPERSON MILLER: Okay. And do you
15 have any date in mind or do you --

16 MS. SCHMIDT: The Board -- if the
17 Board can --

18 CHAIRPERSON MILLER: You would like
19 our Legal Counsel to get back to you --

20 MS. SCHMIDT: Yes, yes.

21 CHAIRPERSON MILLER: -- later on that?

22 MS. SCHMIDT: Yes, please.

1 CHAIRPERSON MILLER: All right. And
2 the applicant is in agreement with the
3 continuance request?

4 MR. KLINE: Yes, we are in agreement.

5 CHAIRPERSON MILLER: Okay. All right.
6 Then I would move that we grant a continuance in
7 this case to a date to be determined by our
8 General Counsel.

9 Anyone have a second?

10 MEMBER SHORT: Second.

11 CHAIRPERSON MILLER: Any discussion?

12 MEMBER ALBERTI: Yes.

13 CHAIRPERSON MILLER: Okay.

14 MEMBER ALBERTI: I'm curious, are we
15 setting the Show Cause Hearing date that we have
16 scheduled or are we postponing those or what is
17 going --

18 CHAIRPERSON MILLER: Okay.

19 MEMBER ALBERTI: -- what is the status
20 of that? I mean, I have no problem. I mean, we
21 generally -- we often sort of --

22 MS. SCHMIDT: Well, we could --

1 MEMBER ALBERTI: -- suggest that
2 people come back to us if they have -- you know,
3 if they want an additional Status Hearing. We
4 always entertain that. So this is really no
5 different than any of those other cases. But
6 when we do that, we set the Show Cause Hearing
7 date.

8 CHAIRPERSON MILLER: Okay.

9 MEMBER ALBERTI: And I think that that
10 is what we should do here.

11 CHAIRPERSON MILLER: I haven't had a
12 motion yet to change any of the hearing dates, so
13 I'm prepared to announce the hearing dates as
14 they appear.

15 MEMBER ALBERTI: Okay. Great.

16 CHAIRPERSON MILLER: So she --

17 MEMBER ALBERTI: Thank you.

18 CHAIRPERSON MILLER: -- so this is
19 just to -- the first one, I think, is October 7th,
20 so there is time for an additional status.

21 MS. SCHMIDT: Well, I would ask that
22 when we reset the status dates, maybe we set the

1 hearing dates accordingly.

2 MR. KLINE: And there are a couple of
3 reasons for that.

4 CHAIRPERSON MILLER: Okay. So I'm
5 going to table my motion for now and let's have
6 more discussion on this from the parties.

7 MR. KLINE: Yes. There are a couple
8 of reasons for it. One is there are a number of
9 legal issues that we feel that we need to explore
10 and I think the Government is probably better
11 prepared, since they are the ones that have to go
12 forward with the legal charges, to address this
13 than I am.

14 But I think we are in agreement that
15 there needs to be further discussion in terms of
16 certain legal issues. And then it is our
17 understanding that there are some other cases
18 that are out there that involve similar issues
19 and, to my knowledge, the applicant has not been
20 served with this, at this point, but they very
21 well may tie-in to the legal issues that the
22 parties are going to need to address.

1 CHAIRPERSON MILLER: So is the request
2 not only to reschedule status, but also to
3 reschedule the hearing dates or take them off the
4 calendar?

5 MS. SCHMIDT: Yes.

6 MR. KLINE: Yes.

7 MS. SCHMIDT: Yes.

8 MEMBER ALBERTI: Can we talk about
9 this? Can we talk about this?

10 CHAIRPERSON MILLER: Do you want to
11 talk about it in Executive Session?

12 MEMBER ALBERTI: I think I'm getting
13 a nod from my suggestion down there that we
14 recess.

15 MEMBER SHORT: What we're just hearing
16 from the Government and what we are hearing about
17 the dates that are going to be set regarding
18 this?

19 CHAIRPERSON MILLER: So what we are
20 hearing is that there is some legal issues that
21 the parties want to explore before they go to
22 hearing and it covers a lot of cases. We have

1 six cases here, but it may cover other cases and
2 correct me if I'm wrong. And so they would like
3 more time to work through these issues.

4 And so I think they are requesting
5 that not only that we postpone the Status
6 Hearing, that we reschedule the hearing on the
7 merits.

8 MEMBER ALBERTI: So --

9 CHAIRPERSON MILLER: Which are
10 scheduled for October 7th right now.

11 MEMBER SHORT: With all due respect,
12 Madam Chair --

13 CHAIRPERSON MILLER: Yes?

14 MEMBER SHORT: -- we have six cases
15 before us now.

16 CHAIRPERSON MILLER: Yes.

17 MEMBER SHORT: And there are other
18 cases to come, correct?

19 CHAIRPERSON MILLER: Correct.

20 MEMBER SHORT: Is that what I'm
21 hearing?

22 CHAIRPERSON MILLER: Yes, that's what

1 we have heard.

2 MEMBER SHORT: That will reflect on
3 these same cases?

4 CHAIRPERSON MILLER: That are related
5 somehow to the legal issues in the cases.

6 MS. SCHMIDT: The same issues.

7 CHAIRPERSON MILLER: The same issues.

8 MEMBER ALBERTI: So, Madam Chair, I
9 would ask that the Board recess to talk about
10 this suggestion that we postpone the Show Cause
11 Hearing dates that have been set and noticed.

12 CHAIRPERSON MILLER: All right.
13 Before you do that, I just want to make a couple
14 more inquiries and see if the parties have
15 anything else to add or if other Board Members
16 have any other questions.

17 Because this is a somewhat unusual
18 situation. We often leave the Show Cause Hearing
19 date, so what you are asking for is not even a
20 specific delay, like a month, you know, move it a
21 month or whatever. You are just saying leave it
22 open.

1 MS. SCHMIDT: No, no. What we are
2 saying is that --

3 CHAIRPERSON MILLER: Okay. What are
4 you saying?

5 MS. SCHMIDT: No. What we are saying
6 is that usually when we get --

7 MEMBER SILVERSTEIN: Please, speak up,
8 Ms. Schmidt.

9 MS. SCHMIDT: -- the status date.

10 CHAIRPERSON MILLER: Could you speak
11 up a little bit?

12 MS. SCHMIDT: Usually when we get a
13 status date, there is a corresponding amount of
14 time for the Show Cause date. We are not asking
15 for any special -- we are just saying a new
16 status date and if it's two or three weeks later,
17 that's fine. It's just another status date. I
18 don't -- it's just October 7th, we will be coming
19 before you on October 7th and saying that we may
20 need more time. We are just trying to save
21 ourselves a trip.

22 MR. KLINE: Yes, and I don't want to

1 speak for the Government, but it may be that
2 there will be an amended or one or more amended
3 Show Cause Notices. I mean, I don't -- we
4 haven't gotten that far yet. But there are, you
5 know --

6 MS. SCHMIDT: No, there will not be an
7 amended. It will just be part of an offer.

8 MR. KLINE: Okay. All right. That's
9 fine.

10 CHAIRPERSON MILLER: May I?

11 MEMBER SHORT: What was that? I
12 didn't hear that.

13 CHAIRPERSON MILLER: Wait.

14 MR. KLINE: Oh, I withdraw that.

15 MS. SCHMIDT: Please. Withdraw that,
16 please.

17 MR. KLINE: I'm incorrect about that.

18 MS. SCHMIDT: It's not -- he is
19 totally incorrect.

20 CHAIRPERSON MILLER: Okay.

21 MS. SCHMIDT: It's nothing to
22 speculate about.

1 CHAIRPERSON MILLER: Mr. Alberti, you
2 have a question?

3 MEMBER ALBERTI: So, Ms. Schmidt, no
4 matter how you package this, what you are asking
5 is a postponement of the Show Cause Hearing. You
6 know, Status Hearings are just that, Status
7 Hearings. Nothing has to happen. We just make
8 sure we are on track for dates. We can schedule
9 those on a moment's notice any time you want.

10 What you are really asking for here,
11 I don't care how you package it, what you are
12 asking for is a postponement of the Show Cause
13 Hearing date. So let's talk about that.

14 MS. SCHMIDT: Okay. Mr. Alberti, I'm
15 willing to go forward on October 7th, but to
16 prepare the witnesses, have witnesses come here
17 and take up the Board's time when we are not
18 ready to go forward, I think would be more a
19 waste of the Board's resources and our -- the
20 Government's resources in all fairness.

21 I'm not asking for anything that
22 spectacular. If there is a chance of resolving

1 this, there might not even be a hearing. I think
2 we are talking very esoterically right now.

3 CHAIRPERSON MILLER: Okay.

4 MS. SCHMIDT: But in order to prepare
5 six cases, to have six witnesses for six cases be
6 ready on a day that may not -- that we may
7 resolve beforehand, I don't see -- it's up to the
8 Board.

9 MR. KLINE: If I may?

10 MEMBER ALBERTI: May I say something
11 in response to that?

12 CHAIRPERSON MILLER: Okay.

13 MEMBER ALBERTI: So we still haven't
14 heard -- I think it was mentioned earlier that we
15 haven't heard how much time you do need. I mean,
16 you can't -- you come here today asking for a
17 postponement, I expect you to be prepared with a
18 suggestion of how much time you need.

19 MR. KLINE: Mr. Alberti, if I may?
20 With all due respect to the Board, these
21 requests, when there is agreement between
22 counsel, are routinely granted. In this case,

1 rather than doing it on the eve of the hearing,
2 we are trying to be proactive and recognize,
3 because we know the Board has just come off a
4 recess and I know what the Board's calendar is
5 like, and we are just trying to be proactive.

6 And rather than coming to you a week
7 before the hearing and saying gee, we're going to
8 need more time, we recognize now that we need
9 more time, that's all.

10 MEMBER ALBERTI: And, Mr. Kline, I
11 appreciate that. All right? I mean, we get
12 requests to postpone Show Cause Hearings all the
13 time. It's routine. I appreciate that. All
14 right? But usually what we have is some date in
15 mind, some time frame of how long that
16 postponement will be, usually, and I'm not
17 hearing that today.

18 And secondly, for me, this is a
19 particularly unique case because of the number of
20 charges involved and other circumstances
21 surrounding what I see here and I'll put it out
22 there, a pattern of allegations in these cases.

1 So that is my -- that is why I'm so
2 concerned and would like to discuss this with my
3 fellow Board Members.

4 MS. SCHMIDT: Well, this is why we
5 defer to your counsel. If your counsel gives us
6 a hearing in two weeks, we will be prepared in to
7 weeks to discuss. We can discuss. It's just a
8 matter of -- we just thought it would be easier
9 on the Board. It's six cases. You are -- the
10 Board is in charge of the calendar. I don't have
11 your Board's calendar in front of me. That is
12 why I deferred to your counsel.

13 MEMBER ALBERTI: For what? For a --

14 MS. SCHMIDT: For a status date and a
15 hearing date.

16 MEMBER ALBERTI: Oh, that's no
17 problem.

18 MS. SCHMIDT: That's what I did --
19 that's what I asked for immediately.

20 MEMBER ALBERTI: But you want -- but
21 we have a hearing date.

22 MS. SCHMIDT: For a new hearing date

1 and a new status date.

2 MEMBER ALBERTI: And if our counsel
3 says October 7th is okay for a hearing date --

4 MS. SCHMIDT: Then I --

5 MEMBER ALBERTI: -- then that's okay
6 for you?

7 MS. SCHMIDT: -- have to.

8 MR. KLINE: We think we need more time
9 than that, Mr. Alberti.

10 MEMBER ALBERTI: See, this is what --
11 Ms. Schmidt, you're giving --

12 MS. SCHMIDT: I --

13 MEMBER ALBERTI: -- don't change your
14 story. You came in here asking for more time for
15 the Show Cause Hearing.

16 MS. SCHMIDT: Well --

17 MEMBER ALBERTI: And now I'm hearing
18 you tell me it's the 7th and Mr. Kline is saying
19 he needs more time.

20 MS. SCHMIDT: Well, I --

21 MR. KLINE: No. I'm saying we need --

22 MEMBER ALBERTI: So what --

1 MR. KLINE: -- more time.

2 MEMBER ALBERTI: -- is the request
3 coming from the two counsels?

4 MR. KLINE: An additional month.

5 MS. SCHMIDT: An additional month.

6 Obviously, we are not meeting on the 25th. It
7 can't be next week. I don't think it will be
8 next week. It won't be the 23rd. It should not
9 be the 23rd. So if we meet on the 30th, then so
10 maybe another two weeks after that for the
11 hearing, based on your calendar. I don't know
12 what your calendar looks like in October, the
13 first week of October, that's why we deferred to
14 your counsel. We don't have your calendar in
15 front of us.

16 CHAIRPERSON MILLER: Okay.

17 MEMBER ALBERTI: I would like --

18 CHAIRPERSON MILLER: I hear you.

19 MEMBER ALBERTI: -- to talk.

20 CHAIRPERSON MILLER: Okay. I'm not
21 personally in favor of going to the Executive
22 Room to talk about this, if the majority wants

1 to, we can, because -- but the way I see it is we
2 have both parties agreeing on a continuance and
3 this is an extensive number of cases. It's six
4 cases plus more plus legal issues that apparently
5 are out there to be resolved.

6 So and I understand that they don't
7 have the calendar. They don't know what dates
8 are available. And what I have heard is that a
9 month sounds like a reasonable time in which they
10 can resolve this. So I would propose that we
11 postpone the status, postpone the hearing, you
12 know, a month or have our General Counsel look at
13 a date around that time and schedule a status,
14 you know, somewhere around that as well a few
15 weeks ahead of that.

16 I don't understand that this should be
17 such a huge issue that we need to talk about it
18 extensively behind closed doors. I don't see
19 that. Yes?

20 MEMBER SILVERSTEIN: Madam Chair, I
21 agree with you on the final analysis, but I think
22 that I am open to discussion. And my concern

1 about the overall issue of safety and
2 overcrowding is, at this point considering what
3 has been going on in the city with violence, so
4 overriding that I would like to discuss this
5 matter as well briefly. And I would back Mr.
6 Alberti's call for at least some discussion.
7 Although, I would stand with you.

8 MEMBER SHORT: Madam Chair?

9 CHAIRPERSON MILLER: Yes?

10 MEMBER SHORT: Also, I'm concerned
11 about public safety in this issue.

12 CHAIRPERSON MILLER: Okay. Okay.

13 MEMBER SHORT: Substantial changes.
14 Well, I guess we can't discuss anything, but I'll
15 just say we do need to discuss.

16 CHAIRPERSON MILLER: Well, I think we
17 need to ask the parties how these concerns are
18 affected by the delay in the hearing?

19 MR. KLINE: I beg your pardon?

20 CHAIRPERSON MILLER: I would like to
21 ask the Government and the applicant to respond
22 to Board Member's concerns about overcrowding and

1 public safety, whether they are impacted by
2 postponing the hearing a month?

3 MR. KLINE: Madam Chair, from our
4 standpoint, there is no threat to public safety.
5 I think it is inappropriate to get into the
6 merits. I'm quite troubled that because of
7 reports, Board Members may be taking a different
8 position on a simple request, a joint request for
9 a continuance, than they might in other cases.
10 That's almost a prejudgment of the case in terms
11 of saying whoa we have read reports and we don't
12 want to give you a continuance because of what we
13 have read in reports.

14 All licensees are entitled to due
15 process. Licensees are entitled not to be
16 prejudged and this is a simple joint request for
17 a continuance. I'm a little surprised that a
18 joint request for continuance has generated such
19 controversy. I'm at a loss as to why that would
20 be.

21 There are reports. If there was
22 something exigent, I'm not sure I used the right

1 word, but if there were --

2 MS. SCHMIDT: Exigent.

3 MR. KLINE: Exigent, thank you. Then
4 the Board has powers and I suspect -- and the
5 police chief has powers. If there were threats
6 to public safety here, I think we are all aware
7 that the chief of police is not hesitate to
8 exercise rights to protect the public. There is
9 none of that here.

10 MEMBER ALBERTI: Well, I will tell
11 you, I'm --

12 CHAIRPERSON MILLER: Mr. Alberti?

13 MEMBER ALBERTI: The notice was served
14 at least on the first case that you mentioned in
15 early July, that's two months ago. It is
16 astounding to me that the parties are now talking
17 about legal issues that they have to investigate.
18 It's hard for me to -- and, Mr. Kline, you said
19 oh, we have got extra cases out there that
20 haven't, you know, gotten served on -- I don't
21 know how you said that, but that may affect the
22 legal issues.

1 You know, you are bringing in these
2 other allegations. I didn't bring them in. You
3 mentioned them. You put them on the table. I
4 fail to see how those would affect the legal
5 issues of one case, the first case that we would
6 hear ending in 00221.

7 MR. KLINE: Mr. Alberti?

8 MEMBER ALBERTI: I would like us -- it
9 is beyond me to understand why we -- those legal
10 issues could not have been investigated and
11 resolved. Well, not necessarily resolved, but
12 known and -- so the parties would know how to
13 address them in the last two months.

14 MR. KLINE: Without getting into the
15 merits, it would be possible to have that
16 conversation.

17 MEMBER ALBERTI: I know. I know.

18 MR. KLINE: I mean, without getting
19 into the merits. So I think that I would hope
20 the Board would trust its lawyer and trust
21 opposing counsel to make intelligent decisions
22 about these issues. And it's just --

1 MEMBER ALBERTI: But it troubles me--

2 MR. KLINE: -- unusual --

3 MEMBER ALBERTI: -- that you are
4 referring to cases that are in the pipeline when
5 you are talking about legal issues that have
6 arisen and have been unresolved. That shouldn't
7 be the case. The case should be legal issues
8 surrounding this one single case.

9 MR. KLINE: Well, there is more than
10 one single case to begin with. And second --

11 MEMBER ALBERTI: And that is my
12 problem here.

13 MR. KLINE: Mr. Alberti, I'm sorry.

14 MEMBER ALBERTI: There is more. And
15 you said that that --

16 MR. KLINE: Mr. Alberti, may I speak?

17 MEMBER ALBERTI: Okay.

18 MR. KLINE: I'm sorry. I am trying to
19 do my job here.

20 MEMBER ALBERTI: All right. Go ahead.

21 MR. KLINE: And --

22 MEMBER ALBERTI: I apologize. I

1 apologize. Go ahead.

2 MR. KLINE: I don't know any more
3 about the cases in the pipeline other than what
4 was mentioned to me today. I don't know what
5 bearing they are going to have. I simply do not
6 know, because they haven't been served. I
7 haven't seen them. I don't know. I may be wrong
8 about that. Not having read the cases, I don't
9 have any way of knowing. The only thing I know
10 is that the Government's lawyer and I have
11 discussed and agreed that this case would benefit
12 from some more time. That's all.

13 I mean, I don't -- I fail to see why
14 this is so difficult given that there are
15 allegations and the applicant is obviously,
16 entitled to an opportunity to defend those
17 allegations. And the parties, the two parties,
18 this is a joint request, it's not like as if one
19 party has moved, it's a joint request. We agree
20 that we need more time. It's as simple as that.

21 If the Board doesn't want to grant it,
22 as arbitrary and capricious as I think that would

1 be, that's certainly the Board's right.

2 CHAIRPERSON MILLER: Okay. All right.

3 So I think that it's already 9:57 and we have
4 spent an inordinate amount of time on a request
5 for a continuance and so I don't think we need to
6 discuss the hearing more. If there is -- there
7 are a majority of Board Members want to talk
8 about it in --

9 MEMBER SHORT: I would like to talk
10 about it.

11 CHAIRPERSON MILLER: -- that session,
12 I would like to hear that, because for that
13 reason I would do it. I agree with the parties
14 that I don't think this requires a lot more
15 discussion. Is there a majority that wants that?
16 Okay. All right. All right.

17 So then as Chair, I will move that the
18 ABC Board hold a closed meeting for the purpose
19 of seeking legal advice from our counsel on Dacha
20 Beer Garden cases request for a continuance for
21 the six cases. Is there a second?

22 MEMBER SILVERSTEIN: Second.

1 CHAIRPERSON MILLER: Okay. And I'll
2 take a roll call vote on the motion before us now
3 that it has been seconded.

4 Mr. Brooks?

5 MEMBER BROOKS: I agree.

6 CHAIRPERSON MILLER: Mr. Alberti?

7 MEMBER ALBERTI: I agree.

8 CHAIRPERSON MILLER: Mr. Rodriguez?

9 MEMBER RODRIGUEZ: I agree.

10 CHAIRPERSON MILLER: I, Ms. Miller,
11 disagrees.

12 Mr. Silverstein?

13 MEMBER SILVERSTEIN: I agree.

14 CHAIRPERSON MILLER: And, Mr. Short?

15 MEMBER SHORT: I agree.

16 CHAIRPERSON MILLER: Okay. So the
17 vote is 5-1-0. We are going to now hold a closed
18 meeting briefly on this question and so the Board
19 will do so and hopefully we will be back very
20 shortly.

21 (Whereupon, the above-entitled matter
22 went off the record at 9:58 a.m. and resumed at

1 10:17 a.m.)

2 CHAIRPERSON MILLER: Okay. We are
3 back on the record to resolve the joint request
4 of the parties for a continuance in the Dacha
5 cases, Dacha Beer cases.

6 We started out with a request for a
7 continuance for the status conference and then
8 that turned into following a request for a
9 continuance of the Show Cause Hearings. And the
10 last I recall, the Board had asked for more
11 definitive request with respect to time, even
12 though the calendar is not in the control of the
13 parties. And I believe the parties have
14 requested a month.

15 The Board went into Executive Session
16 to talk about the concerns with this request and
17 there is some overlap of concerns about public
18 safety during the period of delaying hearing of
19 this matter, that I believe was behind the
20 Board's concern about granting too long of a
21 continuance.

22 So I think that wraps up what the

1 Board was considering and I believe that there
2 may be a motion by a Board Member with respect to
3 the request for continuance.

4 MEMBER ALBERTI: Okay. I guess it's
5 on me to make the motion then.

6 CHAIRPERSON MILLER: Yes.

7 MEMBER ALBERTI: I thought the Chair
8 would do that. But I will make the motion. I
9 move that we postpone each of the Show Cause
10 Hearing dates by two weeks and that we set a
11 Status Hearing for all of these. Is it six
12 cases?

13 CHAIRPERSON MILLER: Correct.

14 MEMBER ALBERTI: All of these six
15 cases for September 30th. Now, I believe, and
16 correct me if I'm wrong, some of these have a
17 Show Cause Hearing date of October 7th. That
18 would make the new Show Cause Hearing date
19 October 21st. And some of them have a Show Cause
20 Hearing date of October, original date of
21 October, 14th and that would set the Show Cause
22 Hearing date for October 28th.

1 If this puts demands on the legal
2 counsel, I apologize, but this is an important
3 matter for us and I think the District and I ask
4 that the legal counsels do their best.

5 MEMBER SHORT: Mr. Alberti, I second
6 your motion.

7 MEMBER ALBERTI: And, you know, put
8 great effort into resolving any issues that they
9 -- legal issues that they need to investigate.

10 MEMBER SHORT: I second that motion,
11 Madam Chair.

12 CHAIRPERSON MILLER: Okay. Thank you.
13 Discussion? I know there has been a lot of
14 discussion. I would just say that I'm going to
15 vote for the motion, because I think that a
16 continuance should be granted, but I would have
17 granted the one month period of time requested
18 jointly by the parties for them to have the time
19 to do the best job that they could in this case.
20 All right.

21 MR. KLINE: Madam Chair, if I may?
22 Would it make sense to just continue them all to

1 October 28th in the interest of administrative
2 efficiency?

3 CHAIRPERSON MILLER: It seems
4 difficult to have six cases on one day here.
5 However, what I'm going to do is, at this point,
6 I'm going to have the Board vote on it and if you
7 all want to file any motions afterwards in
8 writing, you can do that. But we have gone
9 around on this an awful long time.

10 MR. KLINE: And I neglect and I
11 apologize to Mr. Alberti earlier with respect to
12 any public safety concerns. There is a
13 Certificate of Occupancy for 461, well above any
14 amounts of people that have ever been found in
15 there.

16 CHAIRPERSON MILLER: Okay.

17 MR. KLINE: So --

18 MEMBER SILVERSTEIN: I think we have
19 argued the matter.

20 CHAIRPERSON MILLER: Right. So --

21 MR. KLINE: -- it's a regulatory
22 matter.

1 CHAIRPERSON MILLER: I understand
2 that. And, you know, we talked about this a lot
3 and so I really think that it's best that we take
4 our vote and really you all can do a Motion for
5 Reconsideration or whatever, if you choose, put
6 it in writing, but we can't spend much more time
7 on it. I think we have heard all the arguments
8 and the Board is where it is.

9 MEMBER SILVERSTEIN: I agree, Madam
10 Chair. I believe that the motion balances the
11 need for this matter to move forward, while at
12 the same time giving both sides the opportunity
13 to work out the legal issues. I think that what
14 we are doing is basically trying to fulfill our
15 job of protecting the public interest while still
16 allowing a fair and good hearing on both sides.

17 CHAIRPERSON MILLER: Okay. So there
18 was a motion on the table that has been seconded.

19 All those in favor say aye.

20 ALL: Aye.

21 CHAIRPERSON MILLER: All those
22 opposed? All those abstaining? The motion

1 passes 6-0-0.

2 All right. Thank you very much.

3 MR. KLINE: Thank you.

4 CHAIRPERSON MILLER: Sorry it didn't
5 work out the way you all wanted it to. All
6 right. Next, we are finished with all the Dacha
7 cases.

8 (Whereupon, the Show Cause (Status)
9 Hearings in the above-entitled matter were
10 concluded at 10:22 a.m.)
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